

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

FREDA GAIL MAYNARD
TX-1334602-R

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DOCKETED COMPLAINT NO.
13-120 & 13-169

AGREED FINAL ORDER

On the 17th day of May, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Freda Gail Maynard (the "Respondent").

In order to conclude this matter, Freda Gail Maynard neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order (the "Order"). The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent Freda Gail Maynard is a Texas state certified real estate appraiser who holds certification number TX-1334602-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 2507 Grist Lane, Cedar Park, Texas 78613 (the "Grist property") on or about November 21, 2012; and 1507 W. 4th Street, Lampasas, Texas 76550 (the "4th Street property") on or about February 16, 2013.
3. Thereafter complaints were filed with the Board. The complaints alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. Thereafter the Board, in accordance with the mandate of the Administrative Procedure Act (the "APA"), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103 (the "Act"), notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Grist property:

- a) USPAP Record Keeping Rule -- Respondent violated the Record Keeping Rule because she failed to maintain a work file containing all data, information and documentation necessary to support her opinions, analyses and conclusions as required by the record keeping provisions;
 - b) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) -- Respondent failed to identify and report significant and material information concerning the site description; and failed to adequately identify and report information in the improvements description;
 - c) USPAP Standards 1-2(e)(iv) and 2-2(b)(viii) -- Respondent failed to provide adequate zoning information;
 - d) USPAP Standards 1-3(a) and 2-2(b)(viii) -- Respondent failed to provide evidence in her appraisal report or workfile that support her opinions and conclusions reported in the Neighborhood section of the appraisal report;
 - e) USPAP Standards 1-3(b) and 2-2(b)(ix) -- Respondent failed to provide her supporting rationale for her highest and best use determination;
 - f) USPAP Standards 1-4(b)(i) and 2-2(b)(viii); 1-1(a) and 1-4(b) -- Respondent failed to use an appropriate method or technique to develop a site value determination and did not provide supporting documentation, analysis or data for her determination;
 - g) USPAP Standards 1-4(b)(ii) and 2-2(b)(viii); 1-1(a) and 1-4(b) -- Respondent failed to provide documentary support or the required analysis for her determination of the cost new of improvements, failed to employ recognized methods and techniques, and did not properly collect, verify, analyze and reconcile this data;
 - h) USPAP Standards 1-4(b)(iii) and 2-2(b)(viii); 1-1(a) and 1-4(b) -- Respondent did not collect, verify, analyze and reconcile accrued depreciations and failed to employ recognized methods and techniques because she failed to provide written analysis, documentary support for depreciation and did not calculate external obsolescence caused by the property adjoining properties;
 - i) USPAP Standards 1-4(a) and 2-2(b)(viii); 1-1(a) and 1-4(a) -- Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in her sales comparison approach;
 - j) USPAP Standards 1-1(a) and 1-1(b) -- For the reasons detailed above, Respondent produced an appraisal report for the property that contained several substantial errors of omission or commission by failing to use correct methods and techniques.
6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the 4th street property:

- a) USPAP Record Keeping Rule -- Respondent violated the Record Keeping Rule because she failed to maintain a work file containing all data, information and documentation necessary to support her opinions, analyses and conclusions as required by the record keeping provisions;
 - b) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report significant and material information concerning the site description;
 - c) USPAP Standards 1-2(e)(iv) and 2-2(b)(viii) – Respondent failed to provide adequate zoning information;
 - d) USPAP Standards 1-3(a) and 2-2(b)(viii) – Respondent failed to provide evidence in her appraisal report or workfile that support her opinions and conclusions reported in the Neighborhood section of the appraisal report;
 - e) USPAP Standards 1-3(b) and 2-2(b)(ix) – Respondent failed to provide her supporting rationale for her highest and best use determination;
 - f) USPAP Standards 1-4(b)(i) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination and did not provide supporting documentation, analysis or data for her determination;
 - g) USPAP Standards 1-4(b)(ii) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent failed to provide documentary support or the required analysis for her determination of the cost new of improvements, failed to employ recognized methods and techniques, and did not properly collect, verify, analyze and reconcile this data;
 - h) USPAP Standards 1-4(b)(iii) and 2-2(b)(viii); 1-1(a) and 1-4(b) – Respondent did not collect, verify, analyze and reconcile accrued depreciations and failed to employ recognized methods and techniques because she failed to provide written analysis, documentary support for depreciation and did not calculate external obsolescence caused by the property adjoining properties;
 - i) USPAP Standards 1-4(a) and 2-2(b)(viii); 1-1(a) and 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach;
 - j) USPAP Standards 1-1(a) and 1-1(b) -- For the reasons detailed above, Respondent produced an appraisal report for the property that contained several substantial errors of omission or commission by failing to use correct methods and techniques.
7. Respondent omitted material facts as described in more detail above.
8. The parties enter into the following consent order in accordance with TEX. OCC. CODE § 1103.458.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(12) by omitting material facts.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE §1103.458.

ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

1. **EDUCATION.** On or before May 17, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**
 - a. A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before May 17, 2014.
2. **MENTORSHIP.** On or before May 17, 2014. Respondent shall complete eight (8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor on or before the due date listed for each mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.**
 - a. Eight (8) hours of mentorship concerning the above noted violations in the findings of fact, on or before May 17, 2014.
3. Fully and timely comply with all of the provisions of this Agreed Final Order; and

4. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.

RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the Texas Appraiser Licensing and Certification Board. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming receipt by the Board of all the necessary documents.

Respondent shall send all documents and payments necessary for compliance by: (1) email to compliance.talcb@talcb.texas.gov, (2) fax to (512) 936-3966, attn: Compliance, or (3) certified mail return receipt requested to Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE. I AM AWARE OF MY RIGHT TO A HEARING, AND HEREBY WAIVE A


HEARING AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A PENALTY, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE EXPERIENCE LOGS.

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 24 day of April, 2013.

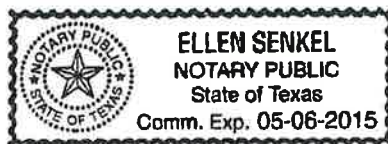

FREDA GAIL MAYNARD


PAUL JORDAN, ATTORNEY FOR
FREDA GAIL MAYNARD

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 24 day of April, 2013, by FREDA GAIL MAYNARD, to certify which, witness my hand and official seal.


Notary Public Signature

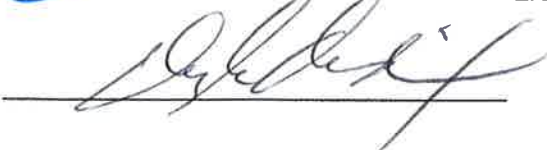
Ellen Senkel
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 16th day of May, 2013.


Kyle Wolfe, TALCB Staff Attorney

Signed by the Commissioner this 17 day of May, 2013.



Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 17 day of May, 2013.



Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board